

Environmental Protection Agency

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§ 97.408 Administrative appeal procedures.

The administrative appeal procedures for decisions of the Administrator under the TR NO_x Annual Trading Program are set forth in part 78 of this chapter.

§ 97.409 [Reserved]

§ 97.410 State NO_x Annual trading budgets, new unit set-asides, Indian country new unit set-aside, and variability limits.

(a) The State NO_x Annual trading budgets, new unit set-asides, and Indian country new unit-set asides for allocations of TR NO_x Annual allowances for the control periods in 2012 and thereafter are as follows:

(1) *Alabama*. (i) The NO_x annual trading budget for 2012 and 2013 is 72,691 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,454 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 71,962 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,439 tons.

(vi) [Reserved]

(2) *Georgia*. (i) The NO_x annual trading budget for 2012 and 2013 is 62,010 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,240 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 53,738 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,075 tons.

(vi) [Reserved]

(3) *Illinois*. (i) The NO_x annual trading budget for 2012 and 2013 is 47,872 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 3,830 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 47,872 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 3,830 tons.

(vi) [Reserved]

(4) *Indiana*. (i) The NO_x annual trading budget for 2012 and 2013 is 109,726 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 3,292 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 108,424 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 3,253 tons.

(vi) [Reserved]

(5) *Iowa*. (i) The NO_x annual trading budget for 2012 and 2013 is 38,335 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 729 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 38 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 37,498 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 712 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 38 tons.

(6) *Kansas*. (i) The NO_x annual trading budget for 2012 and 2013 is 31,354 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 596 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 31 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 31,354 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 596 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 31 tons.

(7) *Kentucky*. (i) The NO_x annual trading budget for 2012 and 2013 is 85,086 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 3,403 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 77,238 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 3,090 tons.

(vi) [Reserved]

(8) *Maryland*. (i) The NO_x annual trading budget for 2012 and 2013 is 16,633 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 333 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 16,574 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 331 tons.

(vi) [Reserved]

(9) *Michigan*. (i) The NO_x annual trading budget for 2012 and 2013 is 65,421 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,243 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 65 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 63,040 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,198 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 63 tons.

(10) *Minnesota*. (i) The NO_x annual trading budget for 2012 and 2013 is 29,572 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 561 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 30 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 29,572 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 561 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 30 tons.

(11) *Missouri*. (i) The NO_x annual trading budget for 2012 and 2013 is 52,400 tons.

(ii) The NO_x annual new unit set-aside for 2012 is 1,572 tons and for 2013 is 3,144 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 48,743 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 2,925 tons.

(12) *Nebraska*. (i) The NO_x annual trading budget for 2012 and 2013 is 30,039 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,772 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 30 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 30,039 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,772 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 30 tons.

(13) *New Jersey*. (i) The NO_x annual trading budget for 2012 and 2013 is 8,218 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 164 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 7,945 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 159 tons.

(vi) [Reserved]

(14) *New York*. (i) The NO_x annual trading budget for 2012 and 2013 is 21,722 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 412 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 22 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 21,722 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 412 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 22 tons.

(15) *North Carolina*. (i) The NO_x annual trading budget for 2012 and 2013 is 50,587 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 2,984 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 51 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 41,553 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 2,451 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 42 tons.

(16) *Ohio*. (i) The NO_x annual trading budget for 2012 and 2013 is 95,468 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,909 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 90,258 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,805 tons.

(17) *Pennsylvania*. (i) The NO_x annual trading budget for 2012 and 2013 is 119,986 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 2,400 tons.

(iii) [Reserved]

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(iv) The NO_x annual trading budget for 2014 and thereafter is 119,194 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 2,384 tons.

(vi) [Reserved]

(18) *South Carolina*. (i) The NO_x annual trading budget for 2012 and 2013 is 32,498 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 617 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 33 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 32,498 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 617 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 33 tons.

(19) *Tennessee*. (i) The NO_x annual trading budget for 2012 and 2013 is 35,703 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 714 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 19,337 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 387 tons.

(vi) [Reserved]

(20) *Texas*. (i) The NO_x annual trading budget for 2012 and 2013 is 137,701 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 5,370 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 138 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 137,701 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 5,370 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 138 tons.

(21) *Virginia*. (i) The NO_x annual trading budget for 2012 and 2013 is 33,242 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 1,662 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 33,242 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,662 tons.

(vi) [Reserved]

(22) *West Virginia*. (i) The NO_x annual trading budget for 2012 and 2013 is 59,472 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 2,974 tons.

(iii) [Reserved]

(iv) The NO_x annual trading budget for 2014 and thereafter is 54,582 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 2,729 tons.

(vi) [Reserved]

(23) *Wisconsin*. (i) The NO_x annual trading budget for 2012 and 2013 is 34,101 tons.

(ii) The NO_x annual new unit set-aside for 2012 and 2013 is 2,012 tons.

(iii) The NO_x annual Indian country new unit set-aside for 2012 and 2013 is 34 tons.

(iv) The NO_x annual trading budget for 2014 and thereafter is 32,871 tons.

(v) The NO_x annual new unit set-aside for 2014 and thereafter is 1,939 tons.

(vi) The NO_x annual Indian country new unit set-aside for 2014 and thereafter is 33 tons.

(b) The States' variability limits for the State NO_x Annual trading budgets for the control periods in 2014 and thereafter are as follows:

(1) The NO_x annual variability limit for Alabama is 12,953 tons.

(2) The NO_x annual variability limit for Georgia is 9,673 tons.

(3) The NO_x annual variability limit for Illinois is 8,617 tons.

(4) The NO_x annual variability limit for Indiana is 19,516 tons.

(5) The NO_x annual variability limit for Iowa is 6,750 tons.

(6) The NO_x annual variability limit for Kansas is 5,644 tons.

(7) The NO_x annual variability limit for Kentucky is 13,903 tons.

(8) The NO_x annual variability limit for Maryland is 2,983 tons.

(9) The NO_x annual variability limit for Michigan is 11,347 tons.

(10) The NO_x annual variability limit for Minnesota is 5,323 tons.

(11) The NO_x annual variability limit for Missouri is 8,774 tons.

(12) The NO_x annual variability limit for Nebraska is 5,407 tons.

(13) The NO_x annual variability limit for New Jersey is 1,430 tons.

(14) The NO_x annual variability limit for New York is 3,910 tons.

(15) The NO_x annual variability limit for North Carolina is 7,480 tons.

(16) The NO_x annual variability limit for Ohio is 16,246 tons.

(17) The NO_x annual variability limit for Pennsylvania is 21,455 tons.

(18) The NO_x annual variability limit for South Carolina is 5,850 tons.

(19) The NO_x annual variability limit for Tennessee is 3,481 tons.

(20) The NO_x annual variability limit for Texas is 24,786 tons.

(21) The NO_x annual variability limit for Virginia is 5,984 tons.

(22) The NO_x annual variability limit for West Virginia is 9,825 tons.

(23) The NO_x annual variability limit for Wisconsin is 5,917 tons.

(c) Each NO_x annual trading budget identified in this section includes any tons in a new unit set aside or Indian country new unit set aside, but does not include any tons in a variability limit.

[77 FR 10334, Feb. 21, 2012, as amended at 77 FR 10347, Feb. 21, 2012; 77 FR 34844, June 12, 2012]

§ 97.411 Timing requirements for TR NO_x Annual allowance allocations.

(a) *Existing units.* (1) TR NO_x Annual allowances are allocated, for the control periods in 2012 and each year thereafter, as provided in a notice of data availability issued by the Administrator. Providing an allocation to a unit in such notice does not constitute a determination that the unit is a TR NO_x Annual unit, and not providing an allocation to a unit in such notice does not constitute a determination that the unit is not a TR NO_x Annual unit.

(2) Notwithstanding paragraph (a)(1) of this section, if a unit provided an allocation in the notice of data availability issued under paragraph (a)(1) of this section does not operate, starting after 2011, during the control period in two consecutive years, such unit will not be allocated the TR NO_x Annual allowances provided in such notice for the unit for the control periods in the fifth year after the first such year and in each year after that fifth year. All TR NO_x Annual allowances that would otherwise have been allocated to such unit will be allocated to the new unit

set-aside for the State where such unit is located and for the respective years involved. If such unit resumes operation, the Administrator will allocate TR NO_x Annual allowances to the unit in accordance with paragraph (b) of this section.

(b) *New units.* (1) New unit set-asides.

(i) By June 1, 2012 and June 1 of each year thereafter, the Administrator will calculate the TR NO_x Annual allowance allocation to each TR NO_x Annual unit in a State, in accordance with § 97.412(a)(2) through (7) and (12), for the control period in the year of the applicable calculation deadline under this paragraph and will promulgate a notice of data availability of the results of the calculations.

(ii) For each notice of data availability required in paragraph (b)(1)(i) of this section, the Administrator will provide an opportunity for submission of objections to the calculations referenced in such notice.

(A) Objections shall be submitted by the deadline specified in each notice of data availability required in paragraph (b)(1)(i) of this section and shall be limited to addressing whether the calculations (including the identification of the TR NO_x Annual units) are in accordance with § 97.412(a)(2) through (7) and (12) and §§ 97.406(b)(2) and 97.430 through 97.435.

(B) The Administrator will adjust the calculations to the extent necessary to ensure that they are in accordance with the provisions referenced in paragraph (b)(1)(ii)(A) of this section. By August 1 immediately after the promulgation of each notice of data availability required in paragraph (b)(1)(i) of this section, the Administrator will promulgate a notice of data availability of any adjustments that the Administrator determines to be necessary with regard to allocations under § 97.412(a)(2) through (7) and (12) and the reasons for accepting or rejecting any objections submitted in accordance with paragraph (b)(1)(ii)(A) of this section.

(iii) If the new unit set-aside for such control period contains any TR NO_x Annual allowances that have not been allocated in the applicable notice of data availability required in paragraph